IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR.

S.B. CIVIL SECOND APPEAL NO.24/2006
Mammal Vs. Jahar Mal & Ors.

03.12.2007.

HON'BLE MR. JUSTICE DALIP SINGH

Shri G.K. Garg, for the appellant.
Ms. Arti Sharma for Shri Ashwin Garg, for the respondents.

This is a plaintiff's second appeal. Learned trial courts has given a finding of previous partition as well as the fact that each co sharer is in possession of his respective portion of the land on the basis of the said previous portion.

The above finding given by the learned trial court is based upon the admission made by the plaintiff PW-1 Mammal son of Shri Chander who has deposed that after having purchase the land all five persons who are the purchasers are in possession of their respective shares.

The case of the defendant was that he was entitled to 1/3rd share as he had paid 1/3rd of the consideration amounting to Rs.7,000/- and odd out of the total consideration of Rs.20,000/- the learned court below came to the conclusion that the defendant having paid 1/3rd of the sale consideration was entitled to 1/3rd share in the total land and was also in possession of the 1/3rd portion of the land.

The above finding of the learned trial court have

been affirmed by the learned appellate court.

There being concurrent findings of the fact I am not inclined to interfere in this second appeal under Section 100 CPC. This second appeal as well as the stay application are accordingly dismissed as no substantial question of law is involved in this second appeal.

(DALIP SINGH),J.

Ramchandrkhatri,PS